

Remarks

Applicant has read and considered the Office Action dated May 21, 2003 and the references cited therein. Claims 1, 7, 10, 13 and 17 have been amended. New claims 19 - 22 have been added. Reconsideration and reexamination are hereby requested.

The disclosure was objected to because of two informalities. On line 5 of page 4, the word "of" was missing. The sentence has been corrected and the word "of" added to provide proper grammar. In addition, the phrase "spaced apartment" has been changed to "spaced apart" on line 5 of page 7. Applicant asserts that the objections to the specification are hereby traversed.

Claim 17 was objected to because "the axle" in line 6 lacks antecedent basis. Claim 17 has been amended to provide proper antecedent basis. In addition, claim 10 was objected to because the first line ends with a semi-colon rather than a colon. Claim 10 has been amended and the semi-colon has been changed to a colon. Applicant asserts that the objections to the claims are overcome.

Claims 7-9 were rejected under 35 U.S.C. § 102(b) as being anticipated by *Lohmann*. In addition, claims 17 and 18 were also rejected as being anticipated by *Lohmann*. Applicant has reviewed the *Lohmann* reference and has provided an official translation of the German document into English. Applicant asserts that the rejections should be withdrawn as the reference does not disclose the steps or the structure as recited in the Office Action.

Regarding claims 7-9, the Office Action states that *Lohmann* discloses a guard for a crop collecting apparatus wherein the method is inherent, with the method comprising the steps of providing a substantially straight, elongate guard member having mounting means at a first end and a second end, mounting the first end to the crop collecting apparatus, coiling the guard member in an arcuate configuration around a portion of the head, and mounting a second end to the crop collecting apparatus, as recited in claim 7. In addition, the Office Action states that the guard member is mounted under tension as per claim 8 and that the mounting means comprise ends with orifices formed therein as per claim 9.

Applicant respectfully traverses the rejection. The *Lohmann* reference neither teaches nor suggests the steps asserted. The guard (6) of *Lohmann* is not a substantially straight elongate member as asserted in the Office Action. *Lohmann* discloses that the elements numbered 6 are "spring steel strips" throughout the application. The application discusses that the spring steel strips can move around the attachment of screws to a limited degree with the limit being established by the tolerance between the hooks and the openings. The advantage of the mounting is elimination of the resulting vibrations. In addition, the *Lohmann* reference discloses that the spring steel strips (6) provide for angular mobility. This provides for some flexure but does not provide radial movement as provided with the present invention. Moreover, there is no teaching or suggestion that the guards are initially straight and mounted at a first end followed by bending the guard member in an arcuate configuration around a portion of the head. The physical properties of the spring steel strips are such that it would be necessary to provide the strips in a pre-bent configuration prior to mounting so that consistent arcs and radial shapes are maintained throughout the width of the pickup drum. Applicant further asserts, as recited in claim 8, that *Lohmann* neither teaches nor suggests that the guard member is mounted under tension. Applicant asserts that the polyethylene guards of the present invention provide more flexure and are truly mounted under tension from their tension-free straight configuration. The spring steel strips of *Lohmann* provide protection to the pickup drum. However, the *Lohmann* reference does not attempt to solve the problem of providing easy access and quick detachment of one end for performing maintenance on components of a harvester as taught by the present invention. Applicant asserts that *Lohmann* neither teaches nor suggests the method steps and that the steps of claims 7, 8 and 9 are not inherent in the structure of the *Lohmann* reference.

For similar reasons, Applicant asserts that claim 17 distinguishes over the *Lohmann* reference. *Lohmann* neither teaches nor suggests that only a first end of the guard is detached and released for performing maintenance. *Lohmann* does not attempt to address the problem of fast maintenance and easy replacement. Moreover, *Lohmann* neither teaches nor suggests that the spring steel strips would return to their straight configuration upon the release of one end. Even if such guards were initially mounted as straight members and then bent into an arcing

configuration, the inherent properties of spring steel strips would impart some degree of arcing in the guards after being mounted to the pickup drum in such a tight coil. Applicant asserts that claim 17 is not anticipated by *Lohmann* and that its method of accessing a crop collection reel is neither shown nor suggested by *Lohmann* or any of the other prior art or combination thereof.

With regard to claim 18, Applicant asserts that *Lohmann* does not teach or suggest a housing comprising a plurality of substantially straight elongate guards intermediate adjacent tine sets, wherein the guards are configured for mounting the crop collection apparatus in an arcing configuration. As stated above, *Lohmann* teaches spring steel strips, but does not teach or suggest that such strips are straight elongate members that are then mounted in an arcing configuration. The inherent physical properties of spring steel strips would require some degree of preforming prior to mounting to the reel. Applicant asserts that claim 18 is neither shown nor suggested by *Lohmann* or any other prior art.

Claim 1-3 and 6 were rejected as being unpatentable over *Lohmann* in view of *Fritz*. As with the Section 102 rejections, the Examiner states that *Lohmann* discloses the guards, but fails to disclose a device wherein the ends of the guards are tapered. The Office Action states that *Fritz* discloses a similar device and the ends of the guards are tapered. Applicant asserts that claim 1 is not anticipated by *Fritz* or *Lohmann*. Neither reference teach or suggest a straight elongate member that is coiled in an arcing configuration when mounted and returns to a straight configuration when removed. *Lohmann* and *Fritz* both require arcing members, but neither would return to a straight configuration when removed. Moreover, neither of the references teaches or suggests such a guard member and even if combined, would not arrive at the present invention, as neither reference has guards with such properties. Applicant asserts that claim 1 patentably distinguishes over the combination and that claims 2-3 and 6 are also allowable for similar reasons.

Claim 4 was rejected under 35 U.S.C. § 103(a) as being unpatentable over *Lohmann* and *Fritz* in view of *Engel*. The Office Action states that the combination is disclosed except for a guard comprising a polyethylene member, but that *Engel* discloses a tine stripper wherein the stripper comprises a polyethylene member. As stated above, none of the reference teach or

suggest the recited straight elongate member. Applicant asserts that the rejection of claim 4 is traversed for the reasons stated above as well as being patentable over the combination of all the references recited in the rejection.

Claims 10-12 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Gallagher et al.* in view of *Lohmann*. The Examiner states that *Gallagher et al.* teaches the crop collection apparatus wherein the guards comprise substantially straight elongate steel strip members. Applicant asserts that the spring steel strip member is not recited in claim 10. Rather, claim 10 recites that the guards comprise substantially straight elongate members that are bent around the reel when mounted. Moreover, as recited above, the spring steel strip members have inherent physical properties that would require pre-bending rather than bending around the reel. Applicant asserts that claim 10 distinguishes over the cited references and any combination thereof. Moreover, claim 11 recites that the guards are under tension when mounted. The prior art neither teaches nor suggests such tension and that such tension provides for improved absorption of impact upon striking the ground and other objects. Applicant asserts that claims 11 and 12 also patentably distinguish over the combination of *Gallagher et al.* and *Lohmann* for the reasons stated above as well as these.

Claim 13 has been amended to provide proper dependency.

Claims 13 and 15 were rejected as being unpatentable over *Lohmann* in view of *Engel*. The Office Action states that *Lohmann* substantially discloses the claimed device, but fails to disclose that the elongate member comprises polyethylene as recited in claim 13 and that the elongate members comprise ultra-high molecular weight polyethylene as recited in claim 15. As stated above, Applicant asserts that neither *Lohmann* nor *Engel* disclose the crop collection apparatus as recited in claim 10. Moreover, neither of the references teach or suggest the combination as stated above. Applicant asserts that claims 13 and 15 patentably distinguish over the cited references.

New claims 19-22 have been added to further clarify the invention and provide further non-obvious advantages over the prior art.

Claim 19 recites that each of the guards returns to a substantially straight configuration when one end of the guard is released. As stated above, this is neither shown nor suggested and is not possible with *Lohmann* or any of the other references. The *Lohmann* reference has inherent physical properties that would prevent such a return to a substantially straight configuration. Applicant asserts that claim 19 patentably distinguishes over the cited references or any combination thereof. Similarly, claim 20 is allowable for the same reasons.

Claim 21 recites that the guard comprises a rounded end and claim 22 recites that the guard comprises a tapered end. The spring steel strips of *Lohmann* neither teach or suggest such a guard. Indeed the spring steel strips of *Lohmann* cannot be made with such a configuration. Moreover, the physical properties of spring steel strips prevent the manufacture of a differing material of one of the other cited references. The rounding of the end or tapering of the end of the guard reduces the sharpness of the edges and allows material to more easily slide over the ends of the guards. Applicant asserts that new claims 21 and 22 patentably distinguish over the cited references or any combination thereof.

A speedy and favorable action on the merits is hereby solicited. If the Examiner feels that a telephone interview may be helpful in this matter, please contact Applicant's representative at (612) 336-4728.

Respectfully submitted,

MERCHANT & GOULD P.C.

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